

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHESTER DAVIS,

Plaintiff,

-v-

COUNTRYWIDE HOME LOANS, *et al.*,

Defendants.

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No. 09 Civ. 8606 (RJS) (HBP)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

On October 8, 2009, *pro se* Plaintiff Chester Davis filed a complaint alleging that Defendants committed fraud and violated numerous federal and state statutes in connection with a mortgage transaction between the parties. (Doc. No. 1.) On October 9, 2009, the Court referred the action to the Honorable Henry B. Pitman, Magistrate Judge, for general pre-trial management, non-dispositive motions, and dispositive motions. (Doc. No. 2.)

Defendants filed a motion to dismiss the complaint, pursuant to Federal Rules 8, 10, and 12(b)(6) of Civil Procedure, and to strike the complaint, pursuant to Rule 12(f), on November 24, 2009. (Doc. No. 5.) The motion became fully submitted on March 26, 2010. (Doc. No. 12.) On July 23, 2010, Magistrate Judge Pitman issued a Report and Recommendation (the "Report") recommending that Defendants' motion dismiss pursuant to Rule 8 and Rule 10 be denied, that their motion to dismiss pursuant to Rule 12(b)(6) for failure to state a claim be granted, and that their motion to strike pursuant to Rule 12(f) be denied as moot. (Doc. No. 15.)

In the Report, Magistrate Judge Pitman advised the parties that failure to file timely objections within fourteen days from service of the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to

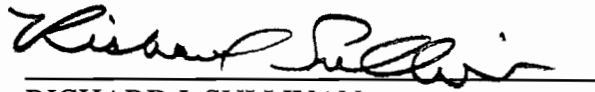
the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After conducting a thorough review of the record, the Court finds that Magistrate Judge Pitman's well-reasoned and persuasive Report is not facially erroneous. Accordingly, the Court adopts the Report in its entirety. For the reasons set forth therein, IT IS HEREBY ORDERED that Defendants' motion dismiss pursuant to Rule 8 and Rule 10 be denied, that their motion to dismiss pursuant to Rule 12(b)(6) for failure to state a claim be granted, and that their motion to strike pursuant to Rule 12(f) be denied as moot.

The Clerk of the Court is directed to terminate the motion located at Doc. No. 5 and close this case.

SO ORDERED.

Dated: August 13, 2010
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE